

DOCUMENT RESUME

O2670 - [A1672667]

[Small Business Determined to Be Nonresponsible]. B-188792. June 8, 1977. 2 pp.

Decision re: Mainline Carpet Specialists, Inc.; by Paul G. Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: General Government: General Property and Records Management (804); General Government: Other General Government (806).

Organization Concerned: Federal Supply Service; General Services Administration; Small Business Administration.

Authority: 15 U.S.C. 637(b)(7). 54 Comp. Gen. 395. B-186465 (1976). B-188060 (1977). B-184022 (1975).

Determination that a firm was nonresponsible was questioned. The firm was denied a Certificate of Competency by the Small Business Administration (SBA), which was viewed as affirmation of nonresponsibility determination. GAO does not review the propriety of SBA determinations. (QM)

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R. Ruffant
Proc I



DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-188792 **DATE: June 8, 1977**
MATTER OF: Mainline Carpet Specialists, Inc.

DIGEST:

1. Where small business concern is found to be non-responsible bidder by procuring activity, subsequent denial of certificate of competency (COC) by SBA must be viewed as affirmation of nonresponsibility determination. Authority to issue or deny COC is vested in SBA, and GAO does not review propriety of such determinations.
2. Alleged violation of anti-trust laws is matter for determination by Department of Justice.

Mainline Carpet Specialists, Inc. (Mainline), protests the award of a contract to any other firm under solicitation No. FEHP-C-71798-A-1-6-77, issued by the Federal Supply Service, Washington, D.C. Mainline contends that its firm submitted the low responsive bid and apparently questions the determination that its firm was nonresponsible for purposes of the subject procurement.

The General Services Administration (GSA) has advised our Office that the contracting officer determined Mainline to be nonresponsible based upon its inability to produce the product within the time specified and on the basis of an unfavorable financial report. Since Mainline was a small business concern, the contracting officer referred the question of Mainline's capacity and/or credit to the Small Business Administration (SBA) for consideration. GSA reports that on February 24, 1977, it was informed by SBA that Mainline's application for a certificate of competency (COC) had been denied.

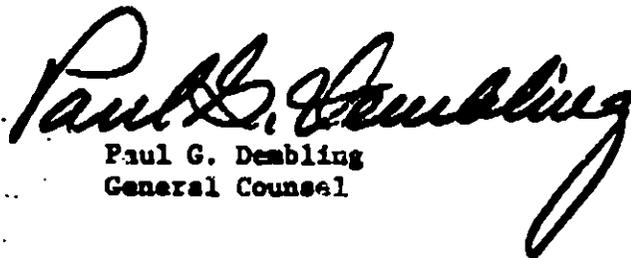
Mainline's protest primarily questions the determination to reject its firm as nonresponsible for purposes of the subject procurement. Our Office will not question the contracting officer's determination of responsibility of a small business concern where it has been affirmed by the SBA by the denial of a COC. See Medley Tool and Model Co., B-186465, July 21, 1976, 76-2 CPD 63. Further, under 15 U.S.C. § 637(b)(7) (1970), SBA has the authority to issue or deny a COC. Our Office will not review

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SMA determinations where a COC is denied. Commercial Envelope Manufacturing Company, Inc., B-188060, January 24, 1977, 77-1 CPD 50.

With regard to Mainline's unsupported contention that "There is a direct violation of the Federal Anti-Trust Laws," this is a matter for consideration by the Department of Justice and not our Office. Automated Datatron, Inc.; Microfilm Communications Systems, Inc., B-184022, September 16, 1975, 75-2 CPD 153; Martin and Turner Supply Company, 54 Comp. Gen. 395 (1974), 74-2 CPD 267.

Accordingly, the protest is not for consideration.


Paul G. Dembling
General Counsel